IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 2566 of 2005

Between:

1 M/s. S.S (Sampathy Sharma) Educational Society, a Society registered under the Societies Registration Act
1350 Fasli, Vide Regn. No. 2338 of 2001, Rep. by its Secretary & Correspondent, S. Chandradoya,
s/o. Late S.P. Sampathy, aged 50 Years, R/o. Hyderabad.
2 Sivani the International School Banjara Hills, Hyderabad. Rep. by its Principal Smt. Uma Sampathy,
W/o. S. Chandradoya, aged 46 Years, R/o. Hyderabad.

..... PETITIONER(S)

AND

1 Government of Andhra Pradesh, Rep. by its principal Secretary, School Education Department
Andhra Pradesh Secretariat, Hyderabad.
2 Council for the Indian School Certificate Examinations, Pragati House, 3rd Floor, 47-48, Nehru Place,
New Delhi, Rep. by its Chief Executive & Secretary.
3 Regional Joint Director of School Education, Government of Andhra Pradesh, at Hyderabad.

.....RESPONDENT(S)

Petition field under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue any appropriate Writ, order or direction preferably a Writ in the nature of Writ of Mandamus, declaring the Letter No. 15622/CS.1/2004-B dt. 27-1-2005 issued by the 1st respondent as being illegal, arbitrary, violative of principles of natural justice and also violative of Article 14 of the Constitution of India and consequently set aside the same and pass such other order or orders.

Counsel for the Petitioner:MR.T.SURYA SATISH

Counsel for the Respondent No.: GP FOR SCHOOL EDUCATION

The Court made the following :

ORDER:

The petitioners challenge the letter dated 27-01-2005, issued by the 1st respondent. Through the impugned letter, the 1st respondent had set aside the order dated 29-07-2004, passed by the 3rd respondent. The matter relates to the issuance of a 'no objection certificate', for the transfer of the management of an educational institution.

M/s Siva Sivani Educational Society, Kompally, Ranga Reddy District, had established various public schools in and around Hyderabad. Certain disputes arose between the members of the management of the society. O.P.No.479 of 1997 was filed in the Court of District Judge, Ranga Reddy, and the same is said to have been compromised. Through a compromise decree, dated 07-11-1997, different institutions were transferred in favour of various societies. Siva Sivani International School, the 2nd petitioner is said to have been transferred in favour of the 1st petitioner-society. The institutions were under the franchise by the 2nd respondent.

The 3rd respondent had issued no objection certificate dated 29-07-2004, in favour of the petitioners herein, enabling the transfer to take place.

The 2nd respondent addressed a letter dated 17-09-2004 to the 1st respondent to ascertain certain facts, in relation to transfer of the 2nd petitioner-institution. The 1st respondent addressed a letter dated 27-01-2005, in reply. It is in this reply, that he had set aside the order dated 29-07-2004 passed by the 3rd respondent.

Sri S. Venkat Reddy, learned Senior Counsel, submits that the impugned letter, insofar as it had set aside the no objection certificate dated 29-07-2004, issued by

the 3rd respondent, cannot be sustained in law. He submits that such a course of action would have been possible, if only the no objection certificate was challenged in an appeal or revision under the provisions of the A.P. Education Act. He further submits that, even assuming that the 1st respondent had any power to interfere with the no objection certificate *suo motu,* it was obligatory on his part to hear the effected parties. He contends that since none of the steps were complied with, the impugned letter cannot be sustained. It is submitted by the learned Government Pleader for School that the 1st respondent did nothing more than clarifying the legal position and indicating the consequences, and that no exception can be taken to the same.

The grievance of the petitioners is about the inaction of the 1st respondent in setting aside the no objection certificate, dated 29-07-2004, issued by the 3rd respondent. It is not in dispute that the 1st respondent was responding to a query from the 2nd respondent, and there was no occasion for considering the legality or otherwise of the no objection certificate, dated

29-07-2004. If for any reason, the 1st respondent felt that the no objection certificate was contrary to law and it cannot be permitted to remain in force, the only course open to him was to have issued notice to the effected parties and pass appropriate orders after hearing them. Such a course was not adopted. Hence, the same deserves to be set aside.

For the foregoing reasons, the writ petition is allowed, and the impugned letter dated 27-01-2005, insofar as it had set aside the no objection certificate, dated 29-07-2004, issued by the 3rd respondent, is quashed. To avoid further complications in the matter, it is directed that the 1st respondent shall pass fresh orders in this regard, after hearing the writ petitioners and other affected parties. In view of the fact that the matter relates to the educational institutions, the proceedings in this regard shall be concluded within a period of six weeks from the date of receipt of copy of this order. There shall be no order as to costs.

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L. NARASIMHA REDDY, J.

Dt.10-03-2005.

Note:

Office to issue c.c.

in two days.

(B/O)

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To

1 Government of Andhra Pradesh, Rep. by its principal Secretary, School Education Department
Andhra Pradesh Secretariat, Hyderabad.
2 Council for the Indian School Certificate Examinations, Pragati House, 3rd Floor, 47-48, Nehru Place,

New Delhi, Rep. by its Chief Executive & Secretary.

3 Regional Joint Director of School Education, Government of Andhra Pradesh, at Hyderabad.

4. 2 CCs to G.P. for School Education, High Court of A.P., High Court Buildings, Hyderabad (OUT)

5. 2 C.D. copies.

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 2566 of 2005

Dated 10-03-2005